

Exhibit 4

STATE OF NEW HAMPSHIRE
SUPERIOR COURT

MERRIMACK, SS.

03-C-0550

STATE OF NEW HAMPSHIRE
v.
HESS CORPORATION,
et al.

SPECIAL VERDICT FORM – part 1

PETER H. FAUVER, Presiding Justice

INJURY

1. Has the State proven, by a preponderance of the evidence, that New Hampshire groundwater has been or will be harmed by MTBE gasoline in the future?

YES X NO _____

If you answered no, stop here, proceed to page 5, and have your foreperson sign and date the form.

If you answered yes, proceed to next Question.

NEGLIGENCE CLAIM

2a. Has the State proven, by a preponderance of the evidence, that ExxonMobil was negligent in its manufacturing or supply of MTBE gasoline to the State of New Hampshire?

Yes X No _____

If you answered no, proceed to Question 3a.

If you answered yes, proceed to next Question.

2b. Has the State proven, by a preponderance of the evidence, that MTBE gasoline was a substantial factor in bringing about the State's harm and that the State's harm would not have occurred but for MTBE gasoline?

Yes X No _____

Proceed to next Question.

DESIGN DEFECT CLAIM

3a. Has the State proven, by a preponderance of the evidence, that MTBE in gasoline created a defective condition that was unreasonably dangerous.

YES X NO _____

If you answered no, proceed to Question 4a.

If you answered yes, proceed to next Question.

3b. Has the State proven, by a preponderance of the evidence, that the ways in which MTBE gasoline would be used were reasonably foreseeable to ExxonMobil?

YES X NO _____

If you answered no, proceed to Question 4a.

If you answered yes, proceed to next Question.

3c. Has the State proven, by a preponderance of the evidence, that MTBE gasoline was a substantial factor in bringing about the State's harm and that but for MTBE being in gasoline the State would not be harmed.

Yes X No _____

If you answered no, proceed to Question 4a.

If you answered yes, proceed to next Question.

DEFENSES TO DESIGN DEFECT CLAIM

3d. Has ExxonMobil proven, by a preponderance of the evidence, that in designing its MTBE gasoline, it complied with the state of the art?

YES _____ NO X

Proceed to next Question.

FAILURE TO WARN CLAIM

4a. Has the State proven, by a preponderance of the evidence, that ExxonMobil failed to adequately warn the State about the hazards of MTBE gasoline?

YES X NO _____

If you answered no, proceed to Question 5a.

If you answered yes, proceed to next Question.

4b. Has the State proven, by a preponderance of the evidence, that it would not have used MTBE gasoline or would have used it differently if ExxonMobil had provided an adequate warning.

YES X NO _____

If you answered no, proceed to Question 5a.

If you answered yes, proceed to next Question.

4c. Has the State proven, by a preponderance of the evidence, that failure to warn was a substantial factor in bringing about the State's harm and that but for the failure to warn the State would not be harmed.

YES X NO _____

If you answered no, proceed to Question 5a.

If you answered yes, proceed to next Question.

DEFENSES TO FAILURE TO WARN CLAIM

4d. Has ExxonMobil proven, by a preponderance of the evidence, that the hazards posed by the use of MTBE in gasoline were obvious, or were known and recognized by the State?

YES _____ NO X

If you answered no, proceed to next Question.

If you answered yes, proceed to Question 5a.

4e. Has ExxonMobil proven, by a preponderance of the evidence, that it provided distributors with adequate warnings of the hazards of MTBE gasoline?

Yes _____ No

If you answered no, proceed to Question 5a.

If you answered yes, proceed to next Question.

4f. Has ExxonMobil proven, by a preponderance of the evidence, that ExxonMobil had reasonable assurances from distributors that they would pass along the adequate warnings from ExxonMobil to end users and consumers?

Yes _____ No _____

Proceed to next Question.

MARKET SHARE LIABILITY

5a. Has the State proven, by a preponderance of the evidence, that MTBE gasoline is fungible?

Yes No _____

If you answered no, stop here, proceed to the end, and have your foreperson sign and date this form.

If you answered yes, proceed to next Question.

5b. Has the State proven, by a preponderance of the evidence, that it cannot trace MTBE gasoline found in groundwater and in drinking water back to the company that manufactured or supplied that MTBE gasoline?

Yes No _____

If you answered no, stop here, proceed to the end, and have your foreperson sign and date this form.

If you answered yes, proceed to next Question.

5c. Has the State proven, by a preponderance of the evidence, that it has identified a substantial segment of the relevant market for gasoline containing MTBE?

Yes No _____

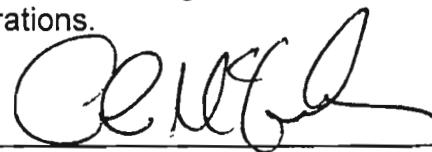
If you answered no, stop here, proceed to the end, and have your foreperson sign and date this form.

If you answered yes, proceed to next Question.

5d. What is ExxonMobil's market share for MTBE gasoline for the years 1988 to 2005?

28.94 %

Stop here. When you have finished this form, please have your foreperson sign and date this form, put it in the provided envelope, seal it, and give it to the Bailiff. You will then receive instructions about further deliberations.



Foreperson

4/9

Date

1159

STATE OF NEW HAMPSHIRE
SUPERIOR COURT

MERRIMACK, SS.

03-C-0550

STATE OF NEW HAMPSHIRE
v.
HESS CORPORATION,
et al.

SPECIAL VERDICT FORM – Part 2

PETER H. FAUVER, Presiding Justice

INTERVENING OR SUPERSEDING CAUSE DEFENSE

1a. Has ExxonMobil proven, by a preponderance of the evidence, that the actions of someone other than the State or ExxonMobil (which were not reasonably foreseeable to ExxonMobil) were the sole cause of the State's harm?

Yes _____ No X

If you answered no, proceed to Question 2a.

If you answered yes, proceed to next Question.

1b. Identify the party or parties who you have determined to be the sole cause of the State's harm:

*If you answered yes to Question 1a, complete Question 1b and then **stop here**, proceed to page 3, and have your foreperson sign and date this form.*

PLAINTIFF'S MISCONDUCT DEFENSE

2a. Has ExxonMobil proven, by a preponderance of the evidence, that the State committed misconduct that contributed to its harm?

Yes _____ No X

If you answered no, then proceed to Question 3.

If you answered yes, proceed to next Question.

2b. If you find that the State committed misconduct, what percentage of the total fault do you assign to the State?

_____ %

If you answered no to Question 2a or you assigned less than 50 percent, proceed to the next Question.

*If you answered to yes to Question 2a **and** you assigned more than 50 percent, stop here, proceed to page 3, and have your foreperson sign and date this form.*

DAMAGES

3. What are the damages that the State has proven, by a preponderance of the evidence, will fully, fairly, and adequately compensate the State for its harm? State the amounts, if any, for each of the following categories, and then write the total amount on the bottom line.

a. Past Cleanup Costs:

\$ 142,120,005_{owl}

b. Costs to characterize and cleanup the 228 High Risk Sites:

\$ 218,219,948

c. Sampling Drinking Water Wells:

\$ 305,821,030

d. Treating Drinking Water Wells Contaminated With MTBE at or Above the MCL:

\$ 150,607,035

TOTAL DAMAGES (total of all four categories):

\$ 816,768,018

The Court will do the final calculations as to net damages. Proceed to the next Question.

APPORTIONMENT OF FAULT TO NONPARTIES

4. Has ExxonMobil proven, by a preponderance of the evidence, that some or all of its fault should be allocated to nonparties in the following categories? (The nonparties in each category are identified in Defense Exhibit 1047.)

a. Tanks With Holes: Yes _____ No X
b. Aboveground Releases: Yes _____ No X
c. Tanks With Releases: Yes _____ No X
d. Junkyards: Yes _____ No X

If you answered no to every portion of Question 4, stop here, proceed to the end, and have your foreperson sign and date the form.

If you answered yes to any portion of Question 4, then proceed to Question 5.

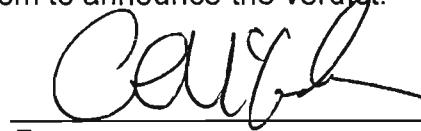
5. If you find that some or all of ExxonMobil's fault should be allocated to nonparties, what percentage of ExxonMobil's fault should be allocated to the following categories?

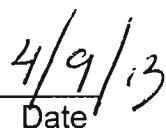
a. Tanks With Holes: _____ %
b. Aboveground Releases: _____ %
c. Tanks With Releases: _____ %
d. Junkyards: _____ %

TOTAL DEDUCTIONS (total of all four categories):

_____ %

Stop here. This concludes your deliberations. Please have your foreperson sign and date this form, put it in the provided envelope, seal it, and give it to the Bailiff. I will then summon you and counsel to the courtroom to announce the verdict.


Foreperson


Date